THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19325 of 2005

01.9.2005

Between:

Srinivasa Towers Association, 6-3-1187, Begumpet, Hyderabad.

… Petitioner

AND

1. The Commissioner, Municipal Corporation of Hyderabad

and another.

… Respondents

ORDER:

Srinivasa Towers Association, Begumpet, Hyderabad is the petitioner. The writ petition is filed for declaring "the action of the respondents in contemplating to take physical possession of 432 Sq. yards of land" in the petitioner's premises bearing No.6-3-1187 as illegal and arbitrary.

The first respondent herein sent a communication to the President of the petitioner society on 14.6.2005 informing that the Municipal Corporation has proposed to widen the existing road to 150 feet, that the petitioner's premises is getting affected to a depth of 23 to 25 feet (admeasuring 456 Sq.yards), and therefore, the cooperation of the petitioner to hand over possession of the area affected in road widening to Municipal Corporation in the public interest. The petitioner was also informed that the Municipal Corporation would pay compensation for structural valuation or allow concessions as per the Government order. In response thereto, the President of the petitioner society sent a communication on 30.6.2005 making some alternative proposals. The President also sent another communication on 24.8.2005 informing the Commissioner that the petitioner society is not willing to hand over the site unless the compensation is properly determined and paid at the market value. While the things stood thus, it is now alleged by the petitioner that the respondents are contemplating to take physical possession of the land admeasuring 432 Sq.yards, in which event, the guard room would also be demolished. Apprehending such action, the present writ petition is filed.

Heard the learned Counsel for the petitioner, Sri M.L.Narasimham, and learned Standing Counsel for Municipal Corporation of Hyderabad, Ms.Jyothi Kiran. A reading of the affidavit filed accompanying the writ petition would show that the writ petition is filed on mere apprehension. As has been held by this Court in number of cases, as a first step the Municipal Corporation – may be due to urgent need for

widening roads – is approaching the owners of the lands/buildings, whose properties are likely to be affected in road widening programme, to hand over advance possession promissing compensation for the structures and also other concessions by way of increased Floors Area Ratio (FAR), as per the relevant Government Order. This is an exercise, which is referable to Sections 145 and 146 of Hyderabad Municipal Corporation Act, 1955 (the Act, for brevity). In the event, the negotiation by the Corporation with the affected owners fails, necessarily the Municipal Corporation has to resort to acquisition of the land for road widening in accordance with Section 147 of the Act. Now that the petitioner society has informed the Commissioner of the Municipal Corporation of Hyderabad that they are not willing to hand over advance possession unless the amount is paid. It is for the Commissioner to decide the issue whether to pay the amount to the petitioner society or to initiate proceedings under Land Acquisition Act, 1894 in accordance with Section 147 of the Act. Till such exercise is completed, the members of petitioner society cannot be deprived of their right to their property.

The writ petition, with the above observations and directions, disposed of. No costs.

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(**V.V.S.RAO,J**)

September 01, 2005.

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